

Serial No.09/783/441

RD-26,782/USA

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(Date of Signature)**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: MARK PHILIP D'EVELYN et al. : Group Art Unit: 1754

Serial No.: 09/783,441 : Examiner: S. Hendrickson

Filed: February 14, 2001 : Paper No.: 5

For: SURFACE IMPURITY-ENRICHED DIAMOND AND METHOD OF MAKING

**PROVISIONAL ELECTION WITH TRAVERSE**

Assistant Director of Patents and Trademarks  
United States Patent and Trademark Office  
Washington, DC 20231

Sir:

Applicants appreciate the consideration shown by the Office, as evidenced by the Restriction Requirement mailed on December 4, 2002. In that Restriction Requirement, the Examiner required an election between Group I (Claims 1, 3-9, 13, 16-18, 20, 21, and 25-42) and Group II (Claims 23 and 24). Accordingly, Applicants provisionally elect Group I (Claims 1, 3-9, 13, 16-18, 20, 21, and 25-42), with traverse.

Applicants submit that MPEP §803 explicitly states: "If the search and examination of the entire application can be made without serious burden, the examiner *must* examine it on the merits even though it includes claims to independent or distinct inventions." Applicants submit that the search and examination of claims drawn to a diamond (as claimed in Group I) and claims drawn to a method of making such a

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diamond (as claimed in Group II) do not impose a serious burden upon the Examiner, and that the entire application should be examined on the merits.

In light of the remarks presented herein, Applicants respectfully submit that the criteria for requiring restriction have not been met, and respectfully request that the Examiner withdraw the Restriction Requirement. If, however, any issues remain unresolved, the Examiner is invited to telephone the Applicants' attorney at the number provided below.

Respectfully submitted,



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December 27, 2002